

Notice of Allowability	Application No.	Applicant(s)	
	10/006,373	SASAKI ET AL.	
	Examiner	Art Unit	
	Joshua L. Pritchett	2872	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to Amendment filed September 27, 2006.
2. ☒ The allowed claim(s) is/are 28-37.
3. ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) ☒ All b) ☐ Some* c) ☐ None of the:
 1. ☒ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

* Certified copies not received: _____.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.
THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

4. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
5. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
 - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
 - 1) ☐ hereto or 2) ☐ to Paper No./Mail Date _____.
 - (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date _____.

Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
6. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

- | | |
|--|--|
| 1. <input type="checkbox"/> Notice of References Cited (PTO-892) | 5. <input type="checkbox"/> Notice of Informal Patent Application |
| 2. <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 6. <input type="checkbox"/> Interview Summary (PTO-413),
Paper No./Mail Date _____. |
| 3. <input type="checkbox"/> Information Disclosure Statements (PTO/SB/08),
Paper No./Mail Date _____ | 7. <input type="checkbox"/> Examiner's Amendment/Comment |
| 4. <input type="checkbox"/> Examiner's Comment Regarding Requirement for Deposit
of Biological Material | 8. <input checked="" type="checkbox"/> Examiner's Statement of Reasons for Allowance |
| | 9. <input type="checkbox"/> Other _____. |

DETAILED ACTION

This action is in response to Amendment filed September 27, 2006. Claim 28 has been amended as requested by the applicant.

Response to Arguments

Applicant's arguments, see Amendment, filed September 27, 2006, with respect to claim 28 have been fully considered and are persuasive. The rejection of claim 28 has been withdrawn. Applicant amended the claim language to overcome the prior art of record.

Allowable Subject Matter

Claims 28-37 are allowed.

The following is an examiner's statement of reasons for allowance:

Regarding claim 28, Schoeppe discloses a laser microscope (fig. 1), which irradiates a sample (5) with a laser light (from 13.2) emitted toward the sample including laser lines of different emission wavelengths comprising: a light source (13.2) to emit the laser light; a monitoring diode/light receiving element (19) to output a detection signal that includes light intensity information of the lights (column 4, lines 1-7), and a controller (36, 34) configured to receive an output signal of the diode and control light intensities of the respective laser lines

based on the detection signal (column 4, lines 1- 19). Schoeppe further discloses wherein the microscope detects fluorescent lights emitted from the sample by the emission wavelengths of the laser lines of the laser light (column 3, lines 49-52). Schoeppe discloses the claimed invention except for the light receiving element being an array that simultaneously receives lights of different emission wavelengths; wherein said light receiving element array comprises either one of a split photodiode and a solid-state image sensing device; and wherein the controller simultaneously controls the light intensities. Lee teaches a system (fig. 1) with a light receiving element array (6) which includes a split photodiode detector and a control system (2) which is configured to receive the output signal of said light receiving element array and simultaneously control setting the respective light intensities of the lines of different emission wavelengths included in said laser light to be constant (column 4, line 43-column 5, line 45). Schoeppe further lacks reference to dyes and spectral resolution. Goix teaches a laser microscope system (fig. 3C) with a monitoring system that includes a spectral resolution section (313), which is a diffraction grating, configured to spectrally resolve light into the lines of different emission wavelengths (page 7, lines 24-27); and a light receiving element array (315). Goix further teaches in column 3, lines 36-41 that it is very well known to mark a sample with fluorescent markers, including dyes, to provide fluorescence of a sample. It would have been obvious to one of ordinary skill in the art at the time the invention was made to replace light receiving element array and controller of Schoeppe et al. with that of Lee to provide faster corrections of light variation in the system. It would have been obvious to one of ordinary skill in the art at the time the invention was made to replace spectral resolution section of Schoeppe with that of Goix to provide faster resolving of the wavelengths with no moving parts. It would have

Art Unit: 2872

been obvious to one of ordinary skill in the art at the time the invention was made to prepare the sample of Schoeppe with fluorescent markers as suggested by Goix as it is a reliable, commonly available method of creating the fluorescence of the sample. The prior art of record fails to teach or suggest the laser light emitted toward the sample being spectrally resolved. The examiner takes this limitation to mean the illumination light is spectrally resolved not the observation light. The prior art above spectrally resolves the observation light not the illumination light and the prior art makes no suggestion of providing the newly claimed limitations.


Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Joshua L. Pritchett whose telephone number is 571-272-2318. The examiner can normally be reached on Monday - Friday 7:00 - 3:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Drew A. Dunn can be reached on 571-272-2312. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

 Joshua L Pritchett
Examiner
Art Unit 2872



DREW A. DUNN
SUPERVISORY PATENT EXAMINER